

1 Tyler M. Hinckley  
2 Montoya Hinckley PLLC  
3 4301 Tieton Drive  
4 Yakima, WA 98908  
5 Attorneys for Plaintiff  
6 Phone: (509) 895-7373  
7 Fax: (509) 895-7015  
8 tyler@montoyalegal.com  
9

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF WASHINGTON

12 CHRISTOPHER CHADWICK,  
13 Plaintiff,

14 vs.

15 VAMCO LTD., INC., a California  
16 corporation,  
17 Defendant.  
18  
19

Case No.:

COMPLAINT FOR DAMAGES  
AND DEMAND FOR  
JURY TRIAL

20  
21  
22 Plaintiff Christopher Chadwick alleges:  
23

24 **I. PARTIES**

25  
26 1. Christopher Chadwick resides in Yakima County, Washington.  
27  
28 Mr. Chadwick is a citizen of the United States of America and a resident of the  
29 state of Washington.  
30

31 2. Vamco Ltd., Inc. ("Vamco") is a California corporation that is  
32 headquartered in Tulare County, California and that conducts business in  
33  
34  
35

COMPLAINT FOR DAMAGES AND DEMAND  
FOR JURY TRIAL - 1

**MONTOKA HINCKLEY PLLC**  
4301 Tieton Drive  
Yakima, WA 98908  
(509) 895-7373

1 Yakima County, Washington as Vamco and under the trade name “Wind  
2 Machine Sales”.

## 3 4 **II. JURISDICTION AND VENUE**

5  
6 3. 28 U.S.C. § 1331 grants the District Court jurisdiction because Mr.  
7 Chadwick alleges that Vamco violated 42 U.S.C. §12112 which creates civil  
8 causes of action arising under the laws of the United States.  
9

10  
11 4. The District Court has supplemental jurisdiction under 28 U.S.C. §  
12 1367 over the state claims that are brought under Washington’s law against  
13 discrimination, RCW 49.60, because a substantial federal question exists. Also,  
14 the state claims form part of the same case in controversy under the United  
15 States Constitution.  
16

17  
18 5. The District Court has jurisdiction under 28 U.S.C. §1332 because  
19 the amount in controversy exceeds \$75,000 and the parties are citizens of  
20 different states.  
21

22  
23 6. The Eastern District of Washington has venue under 28 U.S.C. §  
24 1391(a) and (b) because Vamco conducts business in the district and because a  
25 substantial part of the events or omissions giving rise to Mr. Chadwick’s claim  
26 occurred in the district.  
27

28  
29 7. Mr. Chadwick filed a claim with the Washington State Human  
30 Rights Commission on or about October 19, 2017 and his claim was sent to the  
31  
32  
33  
34  
35

1 Equal Employment Opportunity Commission (EEOC) for dual filing purposes  
2  
3 on or about November 15, 2017. On or about September 19, 2018, Mr.  
4 Chadwick received a Notice of Right to Sue from EEOC that stated that he had  
5  
6 the right to sue. His filing of this law suit is within 90 days of the Notice of  
7  
8 Right to Sue.

### 10 III. FACTS

11 8. From before Chris Chadwick was hired to present, Vamco has  
12  
13 operated under the trade name Wind Machine Sales in its Wapato, Washington  
14  
15 location.

16 9. Vamco had more than 15 employees during the entire time that  
17  
18 Chris Chadwick worked for Vamco, and currently has more than 15 employees  
19

20 10. Vamco d/b/a Wind Machine Sales hired Chris Chadwick to work  
21  
22 as a mechanic at its Wapato, Washington location on or about February 13,  
23  
24 2017.

25 11. Mr. Chadwick's supervisor was Josh Bibby. Mr. Bibby had  
26  
27 authority to hire and terminate employees, and ran the day-to-day business  
28  
29 operations for wind machine sales, maintenance, and repair at Vamco's  
30  
31 Wapato, Washington facility. All of Mr. Bibby's conduct relevant to this  
32  
33 complaint was performed within the scope of his duties and authority as a  
34  
35 manager and supervisor for Vamco.

1           12. In March of 2017, Mr. Chadwick was forced to take approximately  
2  
3 one week off of work when the left side of his body went numb and was losing  
4 vision in his left eye.  
5

6           13. Mr. Chadwick was diagnosed with multiple sclerosis in March of  
7  
8 2017. Shortly after receiving his diagnosis, Mr. Chadwick told Mr. Bibby that  
9  
10 he had been diagnosed with multiple sclerosis.

11           14. Mr. Chadwick returned to work and worked for two days before he  
12  
13 began experiencing vision problems in his left eye. Mr. Bibby told Mr.  
14  
15 Chadwick to go home and not to return to work until he had a note from his  
16  
17 doctor clearing him to return to work.

18           15. On or about April 12, 2017, Mr. Chadwick's treating neurologist,  
19  
20 Dr. Lucas McCarthy, wrote a letter stating that Mr. Chadwick was "cleared  
21  
22 medically for return to work but with some restrictions given mild left sided  
23  
24 weakness that may need slow return to heavy activity or climbing as tolerated."  
25

26           16. Mr. Chadwick returned to work full time on or about April 13,  
27  
28 2017. He provided Mr. Bibby with Dr. McCarthy's return to work letter the  
29  
30 same day.

31           17. When Mr. Chadwick returned to work full time, on or about April  
32  
33 13, 2017, he informed Mr. Bibby that he could perform every aspect of his job,  
34  
35 including assisting on service calls in the field, without restrictions.

1           18. Despite knowing that Mr. Chadwick was cleared to work and that  
2  
3 Mr. Chadwick was capable of performing all aspects of his job without  
4  
5 restrictions, Mr. Bibby refused to allow Mr. Chadwick to go out on service  
6  
7 calls, refused to allow him to perform functions of his job that he performed  
8  
9 before being diagnosed with multiple sclerosis, and assigned him with  
10  
11 undesirable or less desirable job tasks.

12           19. After learning of Mr. Chadwick's multiple sclerosis diagnosis, Mr.  
13  
14 Bibby told one or more Vamco employees that he viewed Mr. Chadwick as a  
15  
16 liability because of his multiple sclerosis diagnosis and that he did not want Mr.  
17  
18 Chadwick working for Vamco any longer. Mr. Bibby told one or more Vamco  
19  
20 employees that he would find a reason to terminate Mr. Chadwick.

21           20. During the week of September 11, 2017, Mr. Chadwick had a flare  
22  
23 up of symptoms associated with multiple sclerosis that caused him to limp  
24  
25 when walking. While the flare up of symptoms caused him to limp while  
26  
27 walking, it did not prevent Mr. Chadwick from performing any aspect of his  
28  
29 job.

30           21. Mr. Bibby saw Mr. Chadwick limping on September 11 and  
31  
32 September 12, 2018. On September 12, 2018, Mr. Bibby told Mr. Chadwick to  
33  
34 go home because there was no work for the rest of the week and told Mr.  
35  
36 Chadwick to return on Monday, September 18, 2017. Mr. Chadwick was the

1 only person that Mr. Bibby told not to come to work during the week of  
2  
3 September 11, 2017, and all other employees at Vamco's Wapato, Washington  
4 location worked full time that week.  
5

6 22. On Monday, September 18, 2017, Mr. Bibby terminated Mr.  
7  
8 Chadwick when he arrived for work. Mr. Bibby told Mr. Chadwick that he was  
9  
10 being laid off due to a lack of work. Mr. Chadwick asked Mr. Bibby when he  
11  
12 would be able to return to work and Mr. Bibby stated that there was no return  
13  
14 date for Mr. Chadwick. No other Vamco employees were laid off at that time.

15 23. Mr. Chadwick was qualified for his position and was performing  
16  
17 his job satisfactorily, without restrictions, at the time he was terminated.  
18

19 24. Approximately four days after Vamco terminated Mr. Chadwick,  
20  
21 purportedly due to lack of work, Vamco hired another employee who was not  
22  
23 disabled. The employee that Vamco hired four days after terminating Mr.  
24  
25 Chadwick was trained by Vamco employees to perform the same work as Mr.  
26  
27 Chadwick and performed the same work as Mr. Chadwick.  
28

29 **IV. 42 U.S.C. § 12112 – Disability Discrimination – Termination**  
30

31 25. Mr. Chadwick was an employee of Vamco at all times relevant to  
32  
33 this complaint.  
34  
35

1           26. Vamco was an employer under 42 U.S.C. § 12111 at all times  
2 relevant to this complaint.  
3

4           27. Mr. Chadwick's multiple sclerosis is a disability under 42 U.S.C. §  
5 12102 because it causes physical impairment that substantially limits one or  
6 more of his major life activities, including seeing and walking, particularly  
7 during a flare up. Mr. Chadwick has a record of having a physical impairment  
8 that substantially limits one or more of his major life activities.  
9  
10

11           28. Vamco and Mr. Bibby were aware of Mr. Chadwick's multiple  
12 sclerosis and regarded Mr. Chadwick as having a disability after learning of his  
13 diagnosis.  
14

15           29. Mr. Chadwick was qualified for his job at the time he was  
16 terminated.  
17

18           30. Vamco discriminated against Mr. Chadwick on the basis of  
19 disability by Mr. Bibby, a Vamco manager and Mr. Chadwick's direct  
20 supervisor, terminating Mr. Chadwick because of his disability, in violation of  
21 42 U.S.C. §12112(a).  
22

23           31. Mr. Chadwick filed his claim with the EEOC within 180 days of  
24 the discriminatory treatment by Mr. Bibby. He has filed this lawsuit within 90  
25 days of receipt of the right to sue letter from the EEOC.  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1           32. As a direct and proximate result of Mr. Bibby's discrimination,  
2  
3 Mr. Chadwick suffered emotional distress. He has suffered special damages,  
4 including lost wages and benefits and damages for emotional distress, costs and  
5 attorney's fees for violation of 42 U.S.C. § 12112(a) in an amount he will prove  
6  
7 at trial.  
8

9  
10           33. Vamco acted with reckless or intentional disregard of Mr.  
11 Chadwick's federally protected civil rights in violation of 42 U.S.C. § 1981a,  
12 through Mr. Bibby, and when it allowed Mr. Bibby to terminate Mr. Chadwick  
13 because of his disability. As a result, Vamco is liable for compensatory and  
14  
15 punitive damages in amount Mr. Chadwick will prove at trial.  
16  
17

18  
19  
20           **V. 42 U.S.C. § 12112 – Disability Discrimination – Disparate Treatment**  
21

22           34. Mr. Chadwick was an employee of Vamco at all times relevant to  
23  
24 this complaint.  
25

26           35. Vamco was an employer under 42 U.S.C. § 12111 at all times  
27 relevant to this complaint.  
28

29           36. Mr. Chadwick's multiple sclerosis is a disability under 42 U.S.C. §  
30  
31 12102 because it causes physical impairment that substantially limits one or  
32  
33 more of his major life activities, including seeing and walking, particularly  
34  
35

1 during a flare up. Mr. Chadwick has a record of having a physical impairment  
2 that substantially limits one or more of his major life activities.  
3

4 37. Vamco and Mr. Bibby were aware of Mr. Chadwick's multiple  
5 sclerosis and regarded Mr. Chadwick as having a disability upon learning of his  
6 diagnosis.  
7

8  
9 38. Mr. Chadwick provided Mr. Bibby with a note from his physician  
10 stating that Mr. Chadwick was "cleared medically for return to work but with  
11 some restrictions given mild left sided weakness that may need slow return to  
12 heavy activity or climbing as tolerated."  
13  
14

15 39. When Mr. Chadwick returned to work, on or about April 13, 2017,  
16 he was capable of going on service calls and performing all of the functions of a  
17 mechanic at Vamco and all functions of his job that he performed before he was  
18 diagnosed with multiple sclerosis.  
19  
20  
21  
22

23 40. From April of 2013 until Mr. Chadwick's termination on  
24 September 18, 2017, Mr. Bibby prohibited Mr. Chadwick from going on service  
25 calls, from performing the tasks normally assigned to a mechanic at Vamco,  
26 and from performing functions of his job that he was qualified for, that he was  
27 capable of performing, and that he performed before being diagnosed with  
28 multiple sclerosis. Mr. Bibby assigned Mr. Chadwick to work tasks that were  
29  
30  
31  
32  
33  
34  
35

1 undesirable or less desirable than the work that he was capable of performing  
2  
3 and work that he performed before being diagnosed with multiple sclerosis.

4 41. Mr. Bibby's refusal to allow Mr. Chadwick to go on service calls,  
5  
6 his refusal to allow Mr. Chadwick to perform functions of his job that he was  
7  
8 capable of performing, including work he performed before being diagnosed  
9  
10 with multiple sclerosis, and his conduct in assigning undesirable and less  
11  
12 desirable work tasks to Mr. Chadwick, was based on Mr. Chadwick's disability.

13 42. Mr. Bibby's conduct altered the terms and conditions of Mr.  
14  
15 Chadwick's employment and limited, segregated, and classified Mr. Chadwick  
16  
17 in a way that affected Mr. Chadwick's opportunities or status because of his  
18  
19 disability.

20 43. Mr. Chadwick filed his claim with the EEOC within 180 days of  
21  
22 the discriminatory treatment by Mr. Bibby. He has filed this lawsuit within 90  
23  
24 days of receipt of the right to sue letter from the EEOC.

25 44. As a direct and proximate result of Mr. Bibby's discrimination,  
26  
27 Mr. Chadwick suffered emotional distress. He has suffered special damages,  
28  
29 including lost wages and benefits, and damages for emotional distress, costs and  
30  
31 attorney's fees for violation of 42 U.S.C. § 12112(a) in an amount he will prove  
32  
33 at trial.  
34  
35

1           45. Vamco acted with reckless or intentional disregard of Mr.  
2  
3 Chadwick's federally protected civil rights in violation of 42 U.S.C. § 1981a,  
4 through Mr. Bibby, and by allowing Mr. Bibby to discriminate against Mr.  
5 Chadwick because of his disability. As a result, Vamco is liable for  
6 compensatory and punitive damages in an amount Mr. Chadwick will prove at  
7  
8 trial.  
9  
10

11  
12  
13                   **VI. RCW 49.60.180(2) – Wrongful Termination**  
14

15           46. Mr. Chadwick is a person under RCW 49.60.180.  
16

17           47. Mr. Chadwick's multiple sclerosis, and the symptoms caused by  
18 his disease, constitute a disability under RCW 49.60.040(7). His disability  
19 exists as a record or history. Vamco and Mr. Bibby perceived that he had a  
20 disability.  
21  
22

23           48. Vamco is an employer under RCW 49.60.180 and RCW  
24 49.60.040(11). Mr. Bibby was a manager of Vamco at all times relevant to this  
25 complaint. Mr. Bibby is also an employer under RCW 49.60.040(11) because  
26 he was acting in the interest of Vamco at all times relevant to this complaint.  
27  
28  
29

30           49. Vamco discriminated against Mr. Chadwick by Mr. Bibby  
31 terminating him because of his physical disability, in violation of RCW  
32 49.60.180(2).  
33  
34  
35

50. Vamco replaced Mr. Chadwick with a nondisabled employee approximately four days after terminating him for purported lack of work.

51. Vamco is liable for the discrimination against Mr. Chadwick in violation of RCW 49.60.180(2). Mr. Chadwick suffered general and special damages, including lost pay and benefits, emotional distress, costs and attorney's fees under RCW 49.60.030(2) in an amount he will prove at trial.

**VII. RCW 49.60.180(3) – Disability Discrimination – Disparate Treatment**

52. Mr. Chadwick is a person under RCW 49.60.180.

53. Mr. Chadwick's multiple sclerosis, and the symptoms caused by his multiple sclerosis, constitute a disability under RCW 49.60.040(7). His disability exists as a record or history. Vamco and Mr. Bibby perceived that he had a disability.

54. Vamco is an employer under RCW 49.60.180 and RCW 49.60.040(11). Mr. Bibby was a manager of Vamco at all times relevant to this complaint. Mr. Bibby is also an employer under RCW 49.60.040(11) because he was acting in the interest of Vamco at all times relevant to this complaint.

55. Mr. Chadwick was qualified for his position at Vamco at all times relevant to this complaint.

1           56. Vamco discriminated against Mr. Chadwick in the terms and  
2 conditions of his employment, in violation of RCW 49.60.180(3) by Mr. Bibby  
3 prohibiting Mr. Chadwick from going on service calls and from performing  
4 functions of his job that he was capable of performing and functions of his job  
5 that he performed before being diagnosed with multiple sclerosis. Mr. Bibby  
6 assigned Mr. Chadwick to work tasks that were undesirable or less desirable  
7 than the work that he was capable of performing and work that he performed  
8 before being diagnosed with multiple sclerosis.  
9

10           57. Mr. Bibby's disparate treatment toward Mr. Chadwick was  
11 because of Mr. Chadwick's disability and is imputable to Vamco because Mr.  
12 Bibby's was Mr. Chadwick's supervisor and he ran the day-to-day business  
13 operations for the wind machine sales, maintenance and repair division at  
14 Vamco's Wapato, Washington facility.  
15

16           58. Mr. Bibby and Vamco did not limit or restrict the job tasks,  
17 responsibilities or opportunities, and did not reassign or alter the assignment, of  
18 nondisabled employees at Vamco.  
19

20           59. Vamco is liable for the discrimination against Mr. Chadwick for  
21 violation of RCW 49.60.180(3). Mr. Chadwick suffered general damages,  
22 including emotional distress, lost wages and benefits, costs, and attorney's fees  
23 under RCW 49.60.030(2) in an amount he will prove at trial.  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1  
2  
3 **VIII. DEMAND FOR JURY**

4 60. Mr. Chadwick demands a jury trial pursuant to Fed. R. Civ. P. 38.  
5  
6  
7

8 **IX. PRAYER FOR RELIEF**

9  
10 WHEREFORE, Mr. Chadwick prays for relief as follows:

11 1. For damages pursuant to 42 U.S.C. § 12117, 42 U.S.C. § 2000e-5,  
12 and 42 U.S.C. § 1981a against Vamco for lost wages and benefits, emotional  
13 distress, punitive damages, compensatory damages, income tax effect offset,  
14 attorney's fees, expert fees and costs because of the discrimination against, and  
15 discharge of, Mr. Chadwick on the basis of his disability;  
16  
17  
18  
19

20 2. For damages against Vamco under RCW 49.60.030(2) for actual  
21 damages, including lost wages and benefits, emotional distress, income tax  
22 effect offset, attorney's fees, and costs because of Vamco's violation of RCW  
23 49.60.180(2) and RCW 49.60.180(3) on the basis of Mr. Chadwick's disability;  
24  
25  
26

27 3. For prejudgment interest on any award of lost wages;  
28

29 4. For interest on any judgment entered in Mr. Chadwick's favor in  
30 the maximum amount allowed by law; and  
31

32 5. For such other and further relief as the court may deem just and  
33 equitable.  
34  
35

1  
2  
3 DATED this 29<sup>th</sup> day of November, 2018.

4 s/ Tyler M. Hinckley, WSBA No. 37143  
5 MONTOYA HINCKLEY PLLC  
6 *Attorneys for Plaintiff*  
7 4301 Tieton Drive  
8 Yakima, Washington 98908  
9 Telephone: (509) 895-7373  
10 Fax: (509) 895-7015  
11 Email: tyler@montoyalegal.com  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35